

**R E M A R K S**

All amendments and cancellation of claims are made without acquiescing to any of the Examiner's arguments or rejections, and solely for the purpose of expediting the patent application process in a manner consistent with the PTO's Patent Business Goals (PBG),<sup>1</sup> and without waiving the right to prosecute the cancelled claims (or similar claims) in the future.

In the Office Action mailed 1/9/07, the Examiner objected to the description of the Figures as lacking a complete description of Figures 2 and 3. The Applicants have amended the description of the Figures to describe all panels of the Figures. As such, the Applicants respectfully request that the objection be withdrawn.

In the Office Action issued 1/9/07, the Examiner issued several rejections. Each of the rejections is discussed in detail below:

**I. The Claims are not Subject to Double Patenting**

The Examiner provisionally rejects Claims 26-28 and 30 under the judicially created doctrine of obviousness-type double patenting over claims 2 and 4-7 of co-pending application 11/236,188. The Applicants respectfully disagree. Nonetheless, in order to further the business interests of the Applicants, and without acquiescing to any of the Examiner's arguments or rejections, and solely for the purpose of expediting the patent application process in a manner consistent with the PTO's Patent Business Goals (PBG),<sup>2</sup> and without waiving the right to prosecute the cancelled claims (or similar claims) in the future, the Applicants have amended Claim 28 and canceled Claims 28 and 30. The Amended Claims are specifically directed to treating sepsis using a monoclonal antibody that binds to C5a **receptor**. Application 11/236,188 does not suggest the use of a monoclonal antibody to C5a **receptor**. As such, the Applicants submit that the claims are not subject to double patenting and respectfully request that the rejection be withdrawn.

The Examiner further rejects Claims 26-28 and 30 under the judicially created doctrine of

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<sup>1</sup> 65 Fed. Reg. 54603 (Sept., 8, 2000).

<sup>2</sup> 65 Fed. Reg. 54603 (Sept., 8, 2000).

obviousness-type double patenting over claims 1-4 of U.S. Patent 6,866,845. The Applicants respectfully disagree. As described above, the present invention is directed towards antibodies to C5a receptor, not C5a peptide. Patent 6,866,845 does not teach or suggest monoclonal antibodies to C5a receptor. As such, the Applicants submit that the claims are not subject to double patenting and respectfully request that the rejection be withdrawn.

## **II. The Claims are Definite**

The Examiner rejects Claim 28 under 35 U.S.C. 112, second paragraph as allegedly being indefinite due to the recitation of “small molecule.” (Office Action, pg. 4). As described above, Claim 28 has been canceled. As such, the rejection is moot.

## **III. The Claims are not Anticipated**

The Examiner rejects Claims 26-28 under 35 U.S.C. 102 (b) as allegedly being anticipated by Strachan et al. (J. Immunol 164:6560 [2000]; hereinafter Strachan). The Applicants respectfully disagree with the rejection. As described above, Claim 26 has been amended to specify a monoclonal antibody to C5a receptor. Strachan does not teach or suggest such a monoclonal antibody. As such, Strachan does not teach all of the elements of the claims as required for rejection under 35 U.S.C. 102. Accordingly, the rejection should be withdrawn.

The Examiner further rejects Claims 26-28 under 35 U.S.C. 102 (a) as allegedly being anticipated by Huber-Lang et al. (FASEB J. 16:1567 [2002]; hereinafter huber-Lang). The Applicants respectfully disagree with the rejection. As described above, Claim 26 has been amended to specify a monoclonal antibody to C5a receptor. Huber-Lang does not teach or suggest such a monoclonal antibody. As such, Huber-Lang does not teach all of the elements of the claims as required for rejection under 35 U.S.C. 102. Accordingly, the rejection should be withdrawn.

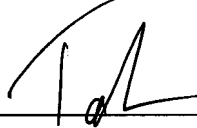
The Examiner additionally rejects Claims 26, 27 and 30 under 35 U.S.C. 102 (b) as allegedly being anticipated by Larrick et al (EP 0245993; hereinafter Larrick) as evidenced by Huber-Lang. The Applicants respectfully disagree with the rejection. As described above, Claim 26 has been amended to specify a monoclonal antibody to C5a receptor. Larrick does not teach or suggest such a monoclonal antibody. As such, Larrick does not teach all of the elements of the

claims as required for rejection under 35 U.S.C. 102. Accordingly, the rejection should be withdrawn.

**CONCLUSION**

If a telephone interview would aid in the prosecution of this application, the Examiner is encouraged to call the undersigned collect at (618) 218-6900.

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